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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/717,019	11/22/2000	Kazunori Ukigawa	Q61928	8508
7590	10/20/2005		EXAMINER	
SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC Suite 800 2100 Pennsylvania Avenue, N.W. Washington, DC 20037-3213			DENNISON, JERRY B	
			ART UNIT	PAPER NUMBER
			2143	
			DATE MAILED: 10/20/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/717,019	UKIGAWA ET AL.
	Examiner J. Bret Dennison	Art Unit 2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 16 August 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 2-8, 10-13, 20-23, 25, 26, 28 and 29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 2-8, 10-13, 20-23, 25, 26, 28 and 29 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

1. This Action is in response to Application Number 09/717,019 received on 26 July 2005.
2. Claims 2-8, 10-13, 20-23, 25, 26, 28, and 29 are presented for examination.
3. Claims 1 and 9 have been canceled.
4. Claim 29 is newly added.
5. Examiner has decided to apply a new art rejection.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 23, 25, 26, and 28 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.
7. Claims 23 and 25 include a computer readable recording medium that stores a program, which makes a computer device function. The computer readable recording medium is not necessarily the actual computing device of the claim, and is therefore not tangibly embodied in a manner so as to be executable and is thus non-statutory for failing to be in one of the categories of invention.
8. Claim 26 and 28 include a program signal embodied in a carrier wave, which appears to be nothing more than a signal carrying instructions for execution not tangibly

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embodied in a manner so as to be executable and is thus non-statutory for failing to be in one of the categories of invention.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 2, 3, 5-8, 10, 13, 23, 25, 26, and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Montero (U.S. 6,133,912).

9. Regarding claim 2, Montero disclosed an information server system which comprises a server device transmitting information in response to a request, and at least one client device being connected to said server device and sending a request for transmission of information to said server device, wherein:

said server device includes:

schedule management means for managing relevance between classifications of information and transmission times of the information and relevance between information representing areas and time zones of the respective areas (Montero, col. 7, line 60 through col. 8, line 5);

request receiving means for receiving, from said client device, a request for transmission of information (Montero, col. 8, lines 10-20),

area determination means for determining in which area at least one client device having sent a request for transmission of information exists(Montero, col. 7, lines 40-60);

information providing means for referring to said schedule management means, and for selecting classified information corresponding to a present time in a time zone of the area which is determined by said area determination means (Montero, col. 7, line 60 through col. 8, line 5), and

information sending means for sending, through the network, the information selected by said information providing means to a predetermined client device which has sent the request for transmission of the information (Montero, col. 7, line 60 through col. 8, line 5); and

said at least one client device includes

request sending means for sending a request for transmission of information to said server device through the network (Montero, col. 8, lines 5-10);

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information receiving means for receiving the information sent from said information sending means through the network (Montero, col. 4, lines 20-30); and information outputting means for outputting the information received by said information receiving means (Montero, col. 4, lines 20-30).

10. Regarding claim 3, Montero disclosed the limitations, substantially as claimed, as described in claim 2, including wherein said server device further includes schedule information sending means for sending schedule information representing relevance between classifications of information and transmission times of the information to said at least one client device through the network;

said at least one client device further includes

schedule information receiving means for receiving schedule information sent from said schedule information sending means through the network, and request inputting means for inputting a request for transmission of information from said server device, in accordance with the schedule information received by said schedule information receiving means; and

said request sending means for sending a request for transmission of information to said server device based on an input from said request inputting means (Montero, col. 2, lines 10-20, 59-61, col. 6, lines 5-20, Montero disclosed an on-demand system that allows subscribers to choose from scheduled information).

11. Regarding claim 5, Montero disclosed the limitations, substantially as claimed, as described in claim 2, including wherein the network is the Internet (Montero, col. 4, lines 1-6).

12. Claim 6 includes an information server system with limitations substantially similar to the limitations of claim 2 and is therefore rejected under the same prior art used as being substantially similar.

13. Claims 7 and 8 include methods of providing information with limitations substantially similar to the limitations of claim 2 and are therefore rejected under the same prior art used as being substantially similar.

14. Claims 10 and 13 include a server device with limitations substantially similar to the limitations of claim 2 and are therefore rejected under the same prior art used as being substantially similar. The initial hardware limitations of claim 13 (i.e. a memory for storing data) can be found in Montero, col. 4, lines 1-35.

15. Claims 23, 25, 26, and 28 include a program and a signal with limitations substantially similar to the limitations of claim 2 and are therefore rejected under the same prior art used as being substantially similar.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 11, 12, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montero (U.S. 6,133,912)

16. Regarding claims 11 and 29, Montero disclosed the limitations, substantially as claimed, as described in claims 2 and 10, including the ISP keeping track of all client interactions and requests (Montero, col. 14, lines 1-35). Montero does not explicitly state wherein said information providing means further includes counting means for counting a number of client devices which have sent a request for transmission of information or a number of client devices to which said information sending means has sent requested information, according to the classifications of the information.

However, since Montero disclosed keeping track of all requests and interactions, and keeping this information in a database, it would have been obvious to one of ordinary skill in the art at the time of the invention to use a standard function such as counting for the purpose of keeping track of subscriber usage and being able to develop a more precise profile for subscribers, as well as enabling advertisers to better select their target audience for advertisements (Montero, col. 14, lines 1-5).

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17. Regarding claim 12, Montero disclosed the limitations, substantially as claimed, as described in claims 2 and 10, including wherein the network is the Internet (Montero, col. 4, lines 1-6).

Claims 4, 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montero (U.S. 6,133,912) in view of Logue et al. (U.S. 5,935,207).

18. Regarding claims 4, 20 and 22, Montero disclosed the limitations substantially as claimed, as described in the rejection of claims 2 and 10. However, Montero does not explicitly state using an intermediary device to provide information to requesting client if such information is stored at the intermediary device.

In an analogous art, Logue disclosed a method and apparatus for providing information from a proxy's cache and for dispatching requests wherein the proxy server receives the client request and determines whether it can handle the request or forward the request to the appropriate server (Logue, col. 10, lines 30-43). Therefore it would have been obvious to one in the ordinary skill in the art at the time of the invention to incorporate the functionality of the server produced Montero into the proxy server of Logue for the purpose of managing internet traffic and improving performance of the server by supplying frequently requested data from the proxy, reducing the number of requests that are serviced by the remote server itself (Logue, col. 2, lines 25-33).

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19. Regarding claim 21, Montero and Logue disclosed the limitations, substantially as claimed, as described in claim 20, including wherein the network is the Internet (Montero, col. 4, lines 1-6). See motivation for claim 20.

### ***Conclusion***

**Examiner's Note:** Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

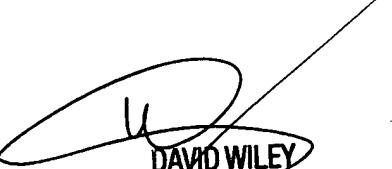
In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Bret Dennison whose telephone number is (571) 272-3910. The examiner can normally be reached on M-F 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
J. B. D.  
Patent Examiner  
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